Quick Reference To Federal Firearms Laws

Definition of "Firearm". Any weapon (including a starter gun) which will expel a projectile by means of an explosive or is designed or may be readily converted to do so. This includes the frame or receiver of any such weapon, any firearm muffler or silencer or any destructive device. It does not include antique firearms as defined in 18 USC § 921(a)(16). A **"destructive device"** includes any explosive, incendiary or poisonous gas - (i) bomb, (ii) grenade, or (iii) similar device, or any combination of parts designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled. 18 USC § 921(a)(3)

I. Possession or Receipt of a Firearm or Ammunition by a Prohibited Person

18 U.S.C. § 922(g) & (n). Punishable by up to 10 years imprisonment. Shall receive minimum sentence of 15 years without suspension of sentence or granting of a probationary sentence, if the felon has 3 or more prior convictions for a felony crime of violence (e.g. burglary, arson, use of explosives, extortion, or involves conduct that presents a serious risk of physical injury to another, or a felony that has as an element the use, attempted use, or threatened use of physical force against another,) and/or drug trafficking felony (18 U.S.C. § 924(e)).

Elements

A. **Possession or receipt** of a firearm or ammunition;

B. By a person who falls in one of the following categories:

- **Convicted of a crime punishable by imprisonment for a term exceeding one year** (persons under indictment or information for such a crime are prohibited from receiving firearms or ammunition);
- **Fugitive from Justice** (requires interstate flight to avoid prosecution or testimony in a criminal case);
- **Drug Users or Addicts** (Often shown by recent conviction for use, recent possession of drugs, or recent arrest for use of drugs, or positive drug tests);
- **Aliens illegally or unlawfully within the US or** (with some exceptions) those lawfully admitted in non-immigrant status (i.e. aliens without permanent residence status);
- **Persons adjudicated as mental defectives** or persons **involuntarily committed to a mental institution;**
- **Formally renounced US citizenship;**
- **Dishonorably discharged from the military;**
- **Subject to a court order prohibiting harassing, stalking, or threatening of an intimate partner or child of an intimate partner,** or placing such persons in reasonable fear of bodily injury. (The order must have been issued after a hearing for which the person had notice and an opportunity to participate, and the order must either find a credible threat to the intimate partner or child, or by explicit terms prohibit the use, attempted use or threatened use of physical force.)
- **Convicted of a misdemeanor crime of domestic violence** (need not be classified as "domestic" crime as long as offense involves the use or attempted use of physical force, or the threatened use of a deadly weapon committed by a current or former spouse, parent, or guardian or a person who cohabits or cohabited with the victim as a spouse, parent or guardian. The subject must have had counsel and a jury trial (if applicable) unless those rights were waived.

C. The firearm or ammunition was transported at any time across aState line or from a foreign country.

II. Knowingly Sell, Give, or Otherwise Dispose of any Firearm or Ammunition to any Person Who Falls within one of the Above Categories

18 U.S.C. § 922(d). Punishable by up to 10 years imprisonment.

III. Use or Carry a Firearm during or in Relation to, or Possess a Firearm in Furtherance of, a Drug Trafficking Crime or Federal Crime of Violence

18 U.S.C. § 924(c). Punishment ranges from a minimum of 5 years to life imprisonment (probation not allowed), or death if death results from the use of a firearm. (18 USC § 924(j)). Sentence must be served consecutive to any other sentence. Mandatory minimum sentence increases depending on: the type of firearm involved (e.g. machinegun), whether the gun was possessed (minimum 5-year sentence), brandished (minimum 7-year sentence), or discharged (minimum 10-year sentence), and prior convictions under this section.

IV. Stolen Firearms and Ammunition

18 U.S.C. § 922(j). Prohibits the receipt, possession, concealment, storage, bartering, selling, or disposing of stolen firearms and ammunition knowing or having reason to believe the firearm or ammunition is stolen. Punishable by up to 10 years imprisonment.

18 U.S.C. § 922(u). Prohibits stealing or unlawfully taking away firearms from the business inventory of a Federal firearms licensee. Punishable by up to 10 years imprisonment.

18 U.S.C. § 924(l). Prohibits stealing a firearm which has moved in interstate or foreign commerce. Punishable by up to 10 years imprisonment.

V. Firearm in a School Zone

18 U.S.C. § 922(q). Except as authorized, generally may not possess or discharge a firearm in a school zone. Punishable by up to 5 years imprisonment.

VI. Unlawful Possession, Manufacture, or Transfer of Certain Firearms and Devices

18 U.S.C. § 922(k) makes it unlawful to transport, ship, receive or possess a firearm with the manufacturer's serial number obliterated, removed or altered. Punishable by up to 5 years imprisonment.

18 U.S.C. § 922(o) makes it unlawful, with exceptions, to possess or transfer a machinegun. Punishable by up to 10 years imprisonment.

18 U.S.C. § 922(v) makes it unlawful, with exceptions, to manufacture, transfer or possess a semi-automatic assault weapon manufactured after September 13, 1994. Punishable by up to 5 years imprisonment.

18 U.S.C. § 922(w) makes it unlawful, with exceptions, to transfer or possess a large capacity ammunition feeding device (holding more than 10 rounds) manufactured after September 13, 1994. Punishable by up to 5 years imprisonment.

26 U.S.C. §§ 5861(d), (e) and (f) make it unlawful to possess, transfer, receive, or make a machine-gun, short-barrel shotgun, short-barrel rifle, silencer, destructive device or other concealable weapon without registration. Punishable by up to 10 years imprisonment.

VII. Sell, Deliver or Transfer to Juvenile

18 U.S.C. § 922(b)(1) prohibits a Federal firearms licensee from selling or delivering a firearm or ammunition to a person under 18, and prohibits selling or delivering a firearm other than a shotgun or rifle, or ammunition other than for a shotgun or rifle, to any person under 21. Punishable by up to 5 years imprisonment.

18 U.S.C. § 922(x) makes it unlawful, with exceptions, for any person to sell, deliver or transfer a handgun, or ammunition suitable for handguns only, to a juvenile (person less than 18 years of age). Punishable by up to 1 year imprisonment.

VIII. Engaging in the Business of Importing, Manufacturing, or Dealing in Firearms without a Federal Firearms License

18 USC § 922(a)(1)(A). Punishable by up to five years imprisonment.

IX. Purchase or Possession of Body Armor by Persons who have Convicted of a Violent Felony

18 USC § 931. Punishable by up to 3 years imprisonment.

X. Forfeiture of Firearms and Ammunition

18 U.S.C. § 924(d) authorizes the seizure and forfeiture of firearms and ammunition involved in or used in a violation of Federal criminal law. However, strict time limitations are imposed upon the forfeiture of firearms and ammunition (120 days for criminal forfeiture and generally 60 days for administrative forfeiture).

For Additional Information, Questions, or to Make a Referral, Please Contact:

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

Contact your local ATF office. Specific offices and telephone numbers can be obtained at the ATF WebSite: **www.atf.gov**